

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

C.K. by his Next Friend,
MARISSA SPRINGSTEAD,

Plaintiff,

v.

Case Number 20-13301
Honorable David M. Lawson

OAKLAND COMMUNITY HEALTH
NETWORK, DANA LASENBY,
MICHIGAN DEPARTMENT OF HEALTH
AND HUMAN SERVICES, ROBERT
GORDON, and GRETCHEN WHITMER,

Defendants.

**ORDER DIRECTING DEFENDANTS TO FILE ANSWER AND
INSTRUCTING THE CLERK'S OFFICE TO AMEND THE CAPTION**

On December 15, 2020, the plaintiff filed her complaint alleging that the defendants breached the parties' settlement agreement. On March 2, 2021, defendants Gretchen Whitmer, the Michigan Department of Health and Human Services (MDHHS), and Elizabeth Hertel, who is a non-party but purports to take the place of defendant Robert Gordon (the State defendants) filed a motion to dismiss the complaint against them under Federal Rule of Civil Procedure 12(b)(6). Under Federal Rule of Civil Procedure 12(a)(4), the Court may set a time for serving an answer when a motion has been served under Rule 12. *See* Fed. R. Civ. P. 12(a)(4) ("Unless the court sets a different time, serving a motion under this rule alters these periods as follows"); *Hill v. Blue Cross and Blue Shield of Michigan*, 237 F.R.D. 613, 617 (E.D. Mich. 2006) ("[T]his Court recognizes that Rule 12(a)(4) also provides that a court may order an answer to be filed at a time *other than* after the motion to dismiss has been denied or the court has postponed consideration of the motion.") (citing Fed. R. Civ. P. 12(a)(4)). The Court believes that having the defendants' answer filed before the motion to dismiss is decided will advance the progress of the litigation.

Additionally, the defendants represent that Elizabeth Hertel has replaced Robert Gordon, who was named in his official capacity, as the director of the MDHHS. The Court, therefore, will direct the clerk's office to amend the caption to substitute Elizabeth Hertel for Robert Gordon as a defendant in this case under Federal Rule of Civil Procedure 25(d).

Accordingly, it is **ORDERED** that the State defendants must file their answer to the complaint **on or before March 16, 2021**.

It is further **ORDERED** that the clerk's office shall amend the docket to substitute Elizabeth Hertel for Robert Gordon as a defendant in this case.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: March 4, 2021